



# CITY OF SANTA BARBARA

## COUNCIL AGENDA REPORT

**AGENDA DATE:** April 17, 2007

**TO:** Ordinance Committee

**FROM:** Planning Division, Community Development Department

**SUBJECT:** Neighborhood Preservation Ordinance Update—Final Review Of Draft Proposed Ordinance Amendments

**RECOMMENDATION:** That the Ordinance Committee:

- A. Review the draft updated Neighborhood Preservation Ordinance (NPO) and related Ordinance amendments; and
- B. Recommend the updated NPO and related Ordinance Amendments to Council for Introduction and Adoption.

### **DISCUSSION:**

On August 8, 2006, Council gave direction regarding the Neighborhood Preservation Ordinance/Single Family Design Guidelines (NPO/SFDG) Update project. There was unanimous support by Council on the majority of items in the proposed NPO/SFDG Update. On October 24, 2006, the Ordinance Committee made decisions regarding two topics regarding FAR implementation and also, voted that private view protection not be included in the Ordinance.

### **A. Draft Ordinance Revisions Provided in this Report**

Attached to this report are proposed ordinance amendments which include previously discussed ordinance amendments (described in Item B., on page 3), as well as the following new ordinance amendment topics for Ordinance Committee review. Ordinance effective dates and interim case processing are proposed in relationship to the formation of the NPB.

**Ordinance Effective Dates.** The proposed schedule of Ordinance effective dates outlined in the Ordinance are as follows:

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REVIEWED BY: \_\_\_\_\_ Attorney

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Agenda Item No. \_\_\_\_\_

- Council Ordinance Introduction: **May 1**
- Council Ordinance Adoption (5 affirmative votes required per Title 28), Single Family Design Guidelines (SFDG) adopting resolution approval and adopt resolution to form the Neighborhood Preservation Board whereby recruitment for NPB members may begin: **May 8**
- Effective Date of the Ordinance provisions which allow Council appointment of NPB members: **June 7**
- Council adoption of NPB Administrative guidelines and revised ABR Administrative Guidelines: **June 26**
- First NPB hearing: **July 9**

#### **Application Processing Proposals.**

Provisions for processing pending projects during the NPB recruitment, appointment and first hearing date time period: **May 1 through July 9**

1. Any project that has been granted preliminary approval with Neighborhood Preservation Ordinance findings made by the ABR prior to May 1st will complete the review process per Ordinance provisions in place at the time of Preliminary Approval. The final approval process for these projects will be completed with the ABR.
2. Project applications which have the following characteristics will be processed under the existing Ordinance as of April 30:
  - a. were exempt from ABR at the time of application;
  - b. have submitted complete applications with Building and Safety; and
  - c. are in an “unexpired” plan check stage prior to May 1.
3. Projects in the Concept or Preliminary Approval Review stages over 85% of the maximum FAR, without a Preliminary Approval will be subject to the new ordinance provisions and must be processed by the NPB. Projects under 85% of the maximum FAR, with two ABR reviews, will continue to be processed by the ABR under the existing ordinance provisions in place as of April 30<sup>th</sup> and per the updated Single Family Design Guidelines, to be adopted on May 8<sup>th</sup>. Any NPO projects may be scheduled at the ABR for Concept reviews prior to the first NPB meeting, but only projects under 85% of the maximum FAR may receive a Preliminary Approval from ABR between May 1<sup>st</sup> and July 9<sup>th</sup>. When the NPB convenes, the NPB will assume processing of any projects subject to the NPO which do not have a Preliminary Approval.

4. Project applications filed after May 1<sup>st</sup> will be subject to the new ordinance and NPB review rather than ABR review.
5. Projects that have received another land use approval prior to May 1<sup>st</sup> (modifications, Coastal Development Permit (CDP) or NPO project approval at Planning Commission) will retain those project approvals. Any required NPO related design review processing for the projects will be continued to be processed by ABR until the NPB convenes (unless the project has received Preliminary approval as noted in item 1, above, or is already in plan check as noted in item 2, above).

As a result, projects meeting the criteria in Items 1, 2, and 5 would experience no processing delays. However, some projects in categories 3 and 4 above could experience a processing delay of up to approximately two months until the first NPB meeting on July 9.

From May 1 through July 9, the City would accept any new applications for projects which are specified as subject to NPB full board review, however, the first Concept reviews for the projects would be scheduled for July 9. Staff will conduct Preliminary Plan checks on the new applications and be available to assist applicants in understanding new submittal requirements and to process NPB projects eligible for Administrative approval, as specified in the pending NPB Guidelines. It is expected that some applicants will be able to work on new submittal requirements, plan check corrections and additional neighborhood outreach while the new NPB is assembled.

Staff recognizes the first NPB meeting date timing may create up to a two month processing delay for some applicants, a significant inconvenience. However, the consequences of allowing continued applications through the adoption and ordinance effective date time period to be processed under previous ordinance provisions may result in an undesirable project application rate “spike”. When the Interim NPO Ordinance was adopted, there were over 70 cases received during the adoption to effective date beyond the normal number of cases which would have been expected to have been received in that time period. At least one of those approved projects, on Mohawk Road, has caused considerable neighborhood concern. Staff recommends designing this ordinance’s effective dates and application processing provisions to avoid a similar “rush” of applications.

**Section 28.04 Definitions** Revised definitions of “grade” and “building height” are provided and the following “new” definitions are included in 28.04:

- Addition
- Alteration
- Grading” definitions in California Building Code Section 3308, except: “approval”, “borrow”, “key”, “site”, “slope”, “soil”, and “terrace”.

**B. Draft Ordinance Revisions, Reviewed February – March '07**

Various sections of the Municipal Code need revision to implement NPO Update recommendations. On February 27, 2007, March 13, 2007, and April 10, the Ordinance Committee reviewed the following topics in Ordinance draft form and gave comments. The brief summary of items below and attached draft ordinance incorporate direction which the Ordinance Committee gave on the topics. Staff recommends the Ordinance Committee review the previously discussed ordinance sections listed below.

**Chapter 22.68 Architectural Board of Review** Design Review purview is proposed to be focused on commercial and multi-unit residential projects.

**Section 22.68.060 Hillside Design District Boundaries** as recommended by Steering Committee (and subsequent reviewing hearing bodies).

**Section 22.68.110 Time Extensions** procedures for project approvals.

**Chapter 22.69 Neighborhood Preservation Board (NPB)** (seven members) to be created to review NPO (single-family) projects. Projects which require an Environmental Impact Report (EIR) will require Planning Commission certification of the EIR before final NPB approval can be given, but the Planning Commission will not review the project itself. Includes required findings for project approvals in Section 22.69.050. Appeals from this Board are heard directly by the City Council.

**Section 22.69.020 Special Design District Project Design Review “Triggers”** includes:

- Requirements for Design Review for exterior alterations on properties with slopes over 20%
- Requirements for Design Review of all roofing alterations

**Section 22.69.020.G Grading and Retaining Wall Project Design Review “Triggers.”**

Requirements for Design Review for all retaining wall projects:

- On lots or building sites with over 15% slopes
- On lots adjacent to an ocean bluff
- Combined retaining wall heights exceeds 6'

**Other Grading Implementation Notes:** Additional new grading standards will be implemented through the NPB Guidelines, rather than through Ordinance amendments. The new grading standards are proposed to be required for project sites or properties with a 20% or greater slope or more than 250 cubic yards outside of the main building footprint.

**Section 22.69.040 NPB Notice and Hearing** for two-story home projects is required to include:

1. Mailed notice to the 20 closest property owners, and
2. Mailed notice to property owners within 100 feet.

The Ordinance also allows the City to require the following types of noticing:

1. On-site notice posting;
2. A “flyer” type of notice to be dropped off at the 20 closest residences for tenants to receive.

A failure for any individual to receive notice of a hearing through posting or a flyer shall not constitute grounds for a project not to be approved or to be appealed.

**Section 22.69.050 NPB Preservation Ordinance Findings** include compatibility findings, special Hillside findings and include a requirement for general compliance with the “Good Neighbor” privacy, landscaping, noise and lighting guidelines listed in the Single Family Design Guidelines. Hillside findings will be applicable not only Hillside Design District lots, but also to lots with 10% or greater average slopes or 10% or greater project sites.

**Section 22.69.055 Green building for large residences** is required to be at the two-star Santa Barbara BuiltGreen program level for projects reviewed by the NPB that are more than 4,000 square feet for projects on lots less than 15,000 square feet that are developed with two-story residences.

**Section 28.15.066 Disallows balcony encroachments** into required interior and front yards without a modification in single family zone districts. Balconies are allowed to encroach two feet into setbacks in other zone districts without a modification per 28.87.062.

**Section 28.15.083 Basement square footage discounts** from net floor area calculations as they contribute to FARs are available in some cases where substantial portions of basements are significantly below grade. The “discounts” are included in 28.18.083 “Special Rules” for calculating net floor area for FAR calculations within the NPO.

**Section 28.15.083 Secondary Dwelling units not counted in FAR calculations.** On August 8, 2006 Council gave unanimous direction to exempt the square footage of secondary dwelling units (sometimes referred to as “granny units”) from FAR maximum requirements. Therefore, the floor area of secondary dwelling units is not subject to FAR requirements in single-family zones and is not counted in net floor area for FAR calculations.

**Section 28.15.083 Floor to Lot Area Ratio (FAR)** is referred to as a “maximum net floor area.”

- Sets floor area maximums for projects involving two or more stories for lots under 15,000 square feet via formulas (section 28.15.083).
- Planning Commission modifications required for two-or-more-story homes to exceed FAR maximum or 85% of maximum FAR when certain other conditions apply (section 28.28.15.083.C).
- Limited one-time increase allowed for homes that are legal non-conforming as to FAR (section 28.87.030.D.1.c).

**Section 28.90.100 On-site parking flexibility** for under 85% of maximum FAR proposals. One uncovered parking space and one covered parking space to be allowed if the uncovered parking space is beyond the front yard. The uncovered parking space would be allowed to encroach within interior yards if a three-foot landscaped buffer is provided between the uncovered parking space and property lines. Staff has revised this proposal since the City Council last reviewed it in August 2006. A minimum three-foot yard setback appears more appropriate than the original zero-foot yard setback proposal because other uncovered parking provisions require a minimum of three-foot yard setbacks. Originally proposed in association with this provision was a limitation on floor area that could be demolished. That aspect of the proposal was eliminated due to the difficulty of differentiating between demolition associated with on-site parking flexibility and demolition for other purposes.

**28.92.110 Modifications** includes a provision for exceeding the maximum net floor area standard if three findings are made.

**BUDGET/FINANCIAL INFORMATION:**

Significant budget impacts are not expected as a result of proposed ordinance amendments and a new NPC and ABR every other week schedule. The budget submitted by the Community Development Department provides for additional staff training to accommodate proposed NPO programs. The previously submitted Department budget for FY'07 – '08 will be adjusted upwards to reflect proposals for up to \$35,000 annually in stipends for ABR, NPB and HLC member activities.

**SUSTAINABILITY IMPACT:**

The proposed NPO Update would improve the sustainability of level of single-family development patterns in the City in many ways, including the following:

- **Smaller home development patterns will result.** Homes are required to be under maximum square footage limits on lots of less than 15,000 square feet. Smaller homes generally use less building material resources and have fewer environmental impacts associated with construction. Smaller homes also typically have less long-term energy use than larger homes and over time, need less maintenance that might involve the use of toxic materials. Smaller homes allow for more opportunities for site soil infiltration of storm water, and for more landscaping opportunities.
- **Some smaller garages and less major site redevelopment may result.** Some projects may be eligible for on-site parking flexibility to allow one covered parking space instead of two. Smaller garages have environmental benefits similar to smaller homes. This provision can also allow for continued use of existing one-car garages rather than the substantial home and garage demolitions which frequently occur to meet the requirement for two covered parking spaces.
- **Built Green Program will be required for some homes.** Homes proposed to be over 4,000 square feet are required to be built at a two-star Santa Barbara Built-Green level or higher.

- **Grading environmental safeguards will be improved.** Additional safeguards and requirements regarding projects proposing significant grading are required.

**CONCLUSION:**

With final Ordinance Committee review of the attached proposed Ordinance amendments, and a recommendation for approval, Council Introduction of the item can occur on May 1, 2007.

**NOTE:** The following documents have been provided to the Mayor and Council under separate cover, and are available for review in the Council office, and the City Clerk's office:

1. Previous Council and Ordinance Committee Staff Reports and Minutes
2. SFDG/NPO Update Package, published May 2006

**ATTACHMENT:** Proposed NPO Update related Draft Ordinance Amendments

**PREPARED BY:** Heather Baker, AICP, Project Planner

**SUBMITTED BY:** Paul Casey, Community Development Director

**APPROVED BY:** City Administrator's Office